REMARKS

Claims 1, 3-26, 28, 30, 31, and 34 are currently pending. Claim 29 has been canceled without prejudice or disclaimer. Claim 34 has been added. Claims 1, 20, 22, 26, and 28-31 have been amended. The amendment is supported by Applicant's original disclosure, including Figures 3A and 3B. Applicant respectfully submits that no new matter has been added.

The Patent Office rejected claims 20-25 under 35 U.S.C. 103(a) as being unpatentable over Nagasawa, U.S. Patent No. 6,707,908, in view of Yoon, U.S. Published Patent Application No. 2002/0052224.

Applicant has disclosed an exemplary embodiment as follows:

> The interrupt created at step 110 and at step 112 of FIG. 2, automatically introduces a replacement sequence of music into the musical audible alert. The replacement sequence is of limited duration (no more than a few seconds) and brings the musical alert to a non-abrupt conclusion. The MIDI data that produces the audible call alert is processed in real-time by the synthesizer and can therefore be modified easily in real-time.
> FIG. 3A illustrates how one musical audible alert 40 may be terminated. During the playing of the original musical audible alert 42, an incoming call is detected by the controller 28. The user answers the call at time T1 and the call termination process starts. The phone starts to play a replacement musical sequence 44 at time T2, which may be the same as T1 or later. The replacement musical sequence 44 and the audible alert 40 terminate at time T3. FIG. 3B illustrates how the original musical audible alert 42 would continue if the has not been answered. This is in comparison to prior mobile telephones in which the ringing tone stops abruptly at T1.
> The replacement musical sequence 44 may be a pre-determined sequence or a generated sequence.

Claim 20 recites as follows:

> A mobile telephone, comprising: an audio output section configured to alert a user to an incoming call by playing a musical audible alert; a user input configured to cause an incoming call to be answered; and a controller configured, responsive to the user input being activated to answer an incoming call, to control the audio output section to **terminate the musical audible alert while the musical audible alert**

> is being played by playing a replacement musical sequence, where the replacement musical sequence is played as a conclusion to the musical audible alert.

Claim 22 recites as follows:

> A memory embodying a data file comprising a replacement musical sequence to be played **to terminate an electronic device musical audible alert while the musical audible alert is being played, the replacement musical sequence being played in response to a user input for answering an incoming call where the replacement musical sequence is played as a conclusion to the musical audible alert.**

The Patent Office asserted that column 2, lines 52-61, column 5, lines 6-13, column 6, lines 32-36, and column 7, lines 38-52, of Nagasawa teaches "cause an audio output section to terminate a musical audible alert while the musical audible alert is being played, in response to user input" and that column 5, lines 63, through column 6, line 23 teachers "after the musical alert has been playing for more than a predetermined threshold duration."

Column 5, line 62, through column 6, line 23 of Nagasawa discloses a time for reproducing individual melody data registered in the melody memories and time of change over from one melody piece to another. This passage of Nagasawa does not disclose or suggest "a controller configured, responsive to the user input being activated to answer an incoming call, to control the audio output section **to terminate the musical audible alert while the musical audible alert is being played by playing a replacement musical sequence, where the replacement musical sequence is played as a conclusion to the musical audible alert.**"

Nagasawa in column 2, lines 52-61, discloses "the melody data are read out successively from the melody data memory means based on the editing condition so as to reproduce the melody of the predetermined number of pieces of music for a predetermined time one by one." Nagasawa, in column 5, lines 6-13, provides a general description of various signal processes that are executed "according to the key input part 10." Nagasawa discloses, in column 6, lines 32-36, a melody editing operation. In column 7, lines 38-52, Nagasawa discloses as follows:

> As mentioned above, in the case an incoming call is received in the

> portable telephone device according to this embodiment with the medley edition setting operation executed, the receipt melody medley is reproduced as the receipt sound. That is, at the time of receipt, the medley data are read out from the melody memory 13 of the memory part 13 selected for the receipt by the medley editing and reproducing part 9 of the control part 3 so that the melodies of the selected pieces of music are played in the order of the selection by the set introduction scan time according to the medley editing condition.

None of these passages of Nagasawa discloses or suggests "a controller configured, responsive to the user input being activated to answer an incoming call, to control the audio output section **to terminate the musical audible alert while the musical audible alert is being played by playing a replacement musical sequence, where the replacement musical sequence is played as a conclusion to the musical audible alert.**" This is because during the playout period of Nagasawa, pre-selected melody data are read out in the order of selection during the melody editing condition. There is no disclosure in Nagasawa of a musical audible alert that is terminated by answering a telephone call by playing as a conclusion a replacement musical sequence.

The Patent Office cites paragraphs 0007, 0008, and 00021 of Yoon as remedying the deficiency of Nagasawa of "the replacement musical sequence is played as a conclusion to the musical audible alert." Paragraph 0007 states "there is a demand for a mobile wireless terminal which can easily set various terminating ring tones, so that the user can hear a new terminating ring tone at each incoming call." Paragraph 0008 states that Yoon seeks "to provide a terminating ring tone editing method for providing a user terminating ring tones that vary with each new incoming call, in a mobile wireless terminal having a memory in which a plurality of melodies are stored." Paragraph 0021 of Yoon shows, in Figures 3A and 3B, the set up process for a terminating ring tone. Decision boxes 106, 108, and 114 together display the set up options: bell 110, melody 126 and 128, original sequence 118, and designated (new) sequence 120-124.

The terminating ring tone disclosed by Yoon in paragraphs 0015 and 0017-0024 is an ordinary ring tone. It is a "terminating ring tone" because it occurs at the called person where the telephone call terminates. By disclosing "**the controller 10 sets the selected melody for a new terminating ring tone in step 130, and then ends the procedure**" in paragraph 0021,

Yoon teaches that the entire selected melody becomes the ring tone (and not either an initial or concluding alert or replacement sequence). Paragraphs 0005-0007 of Yoon indicate that there is but a single musical piece for any given incoming call. The bell/ melody selection in Yoon concerns whether a bell or a melody is to be played for an incoming call, but not both (see paragraph 0022 and the previous response).

The option of a melody sequence designation in Yoon means that the first incoming call will have a different melody played than the second incoming call and not that a musical audible alert will be followed by a replacement musical sequence. Yoon teaches a single melody is played for a given incoming call. Yoon does not teach that this single melody that is created may be added to a musical audible alert.

None of these passages of Yoon discloses or suggests "a controller configured, responsive to the user input being activated to answer an incoming call, to control the audio output section **to terminate the musical audible alert while the musical audible alert is being played by playing a replacement musical sequence, where the replacement musical sequence is played as a conclusion to the musical audible alert.**"

As neither Nagasawa nor Yoon teaches or suggests this claimed subject matter, no purported combination of these two references would teach or suggest this claimed subject matter.

Thus, claims 20-25 are not made obvious by Nagasawa in view of Yoon.

The Patent Office rejected claims 1, 3-8, 10-11, 13-19, and 26 under 35 U.S.C. 103(a) as being unpatentable over Nagasawa in view of Yamaki, U.S. Patent No. 7,067,731.

Claim 1 recites as follows:

> An apparatus, comprising: **a controller**; and a memory, the controller, in conjunction with the memory, **configured to** cause the apparatus to perform actions as follows: alert a user to an incoming call by playing a musical audible alert; **in response to the user input being activated to answer the incoming call, cause an audio output section to terminate the musical audible alert while the musical audible alert is being played; in response to user input by playing a replacement musical sequence as a conclusion of the musical audible alert.**

Nagasawa has been discussed above.

None of these passages of Nagasawa discloses or suggests "**a controller ...
configured to ...in response to the user input being activated to answer the incoming
call, cause an audio output section to terminate the musical audible alert while the
musical audible alert is being played,** in response to user input by playing a replacement
musical sequence as a conclusion of the musical audible alert." This is because during the
playout period of Nagasawa, pre-selected melody data are read out in the order of selection
during the melody editing condition. This is different from a playout **being played in
response to user input.**

The Patent Office asserted that Yamaki discloses "the replacement musical sequence
is played as a conclusion of the musical audible alert." The Patent Office cited column 1,
lines 48-67, column 4, lines 22-40, and column 5, lines 2-12 and 22-67 as providing this
teaching.

Yamaki, in column 1, lines 60-67, discloses as follows:

> Upon receipt of an incoming call from a calling party, the telephone
> terminal rings the incoming call sound corresponding to the chorus-
> effect imparted musical tones to make notification to a called
> subscriber. **When the called subscriber holds the telephone
> terminal for a while,** the telephone terminal transmits signals
> representing the hold sound corresponding to the chorus-effect
> imparted musical tones **to the calling party.**

Yamaki further discloses in column 5, lines 22-67, as follows, in pertinent part:

> **The DAC 28 converts output data of the sound source circuit 1 to
> analog signals, which are supplied to a speaker 31 by way of a
> buffer 30. Thus, the speaker 30 produces the incoming call sound.
> In this case, a buffer 32 is placed in an OFF state in response to the
> incoming call sound generation instruction.
> The DAC 28 converts output data of the sound source circuit 1 to
> analog signals, which are supplied to a speaker 34 by way of the
> buffer 32 and a mixing circuit 33. Thus, the speaker 34 produces
> the hold sound. In this case, the buffer 30 is placed in an OFF state
> in response to the hold sound generation instruction.**

Yamaki relates to a hold condition. Applicant's exemplary embodiments of the
claimed invention recite an incoming call and answering triggers a replacement musical
sequence. Claim 1 recites "**a controller ... configured to ...in response to the user input
being activated to answer the incoming call, cause an audio output section to terminate**

the musical audible alert while the musical audible alert is being played; in response to user input by playing a replacement musical sequence as a conclusion of the musical audible alert." Yamaki does not disclose or suggest an alert is terminated if the user input has been activated. Column 5, lines 49-51, of Yamaki discloses that it is the CPU 12 which issues a hold sound generation instruction but does not disclose that it is the result of user input, a time out condition, or other activity. Column 1, lines 63-67, of Yamaki discloses "When the called subscriber holds the telephone terminal for a while, the telephone terminal transmits signals representing the hold sound corresponding to the chorus-effect imparted musical tones to the calling party." That is, Yamaki does not disclose playing a concluding replacement musical sequence to a musical audible alert, but, instead, sends chorus-effect imparted musical tones to the calling party. The callee presumably would not hear the chorus-effect imparted musical tones.

For this reason, Yamaki does not teach or suggest "a controller ... configured to ...in response to the user input being activated to answer the incoming call, cause an audio output section to terminate the musical audible alert while the musical audible alert is being played; in response to user input by playing a replacement musical sequence as a conclusion of the musical audible alert."

Since neither Nagasawa nor Yamaki teaches or suggests "a controller ... configured to ...in response to the user input being activated to answer the incoming call, cause an audio output section to terminate the musical audible alert while the musical audible alert is being played; in response to user input by playing a replacement musical sequence as a conclusion of the musical audible alert," no purported combination of these two references would teach or suggest this claimed subject matter.

Thus, claim 1 is not made obvious by Nagasawa in view of Yamaki.

Claim 26 recites as follows:

> A memory embodying a musical data file, configured to produce a musical audible alert in an electronic device, the musical data file comprising a plurality of conditional branching markers each of which is associated with a replacement musical sequence to be played to terminate the musical audible alert while it is being played by playing the replacement musical sequence as a conclusion to the musical audible alert beginning at that time

position of the conditional branching marker within the musical
data file only when a condition associated with the conditional
branching marker has been fulfilled.

The sequences of musical melodies of Nagasawa are not altered or concluded because
of satisfaction of a condition associated with a conditional branching marker within a musical
data file. Nagasawa in column 2, line 52, through column 3, line 9, discloses as follows:

According to the above-mentioned configuration, a plurality of melody
data stored in the melody data memory means are reproduced as a
medley by the medley editing and reproducing means based on the
preset editing condition at the time of reproducing the receipt sound
when an incoming call is received. For example, the melody data are
read out successively from the melody data memory means based on
the editing condition so as to reproduce the melody of the
predetermined number of pieces of music for a predetermined time one
by one. As the editing condition, any one or a combination selected
from the group consisting of the number of pieces of music, the
reproduction time for each piece of music, the fade-in/fade-out time for
each piece of music, the titles of the pieces of music, and the order of
the pieces of music in the medley reproduction is set. Accordingly, a
plurality of receipt melodies preliminarily registered can be reproduced
in an optional combination as a medley so that the distinguishing
ability of the receiving state of the telephone terminal device can be
improved. Therefore, even in the case the same telephone terminal
device is nearby, receipt of one's own device can be distinguished
easily from receipt of another device. In reproducing a medley, the
medley editing operation can be executed easily by presetting the
editing condition such as the number of pieces of music in the medley
reproduction.

Nagasawa establishes a melody medley which is played when an incoming call is
received.

Yamaki teaches an incoming call tone and a hold tone but does not relate this to a
musical data file or conditional branching markers.

Neither Nagasawa nor Yamaki discloses or suggests "**the musical data file
comprising a plurality of conditional branching markers each of which is associated
with a replacement musical sequence to be played to terminate the musical audible alert
while it is being played by playing the replacement musical sequence as a conclusion to
the musical audible alert beginning at that time position of the conditional branching
marker within the musical data file only when a condition associated with the**

conditional branching marker has been fulfilled."

As such, neither of these references teaches or suggests this claimed subject matter.

Thus, claim 26 is not made obvious by Nagasawa in view of Yamaki.

As neither claims 1 nor 26 are made obvious by Nagasawa in view of Yamaki, none of claims 1, 3-8, 10-11, 13-19, or 26 are made obvious by these two references as the dependent claims all depend from claim 1.

The Patent Office rejected claim 9 under 35 U.S.C. 103(a) as being unpatentable over Nagasawa in view of Yamaki and Yoon.

Claim 9 depends from claim 1.

Claim 1 recites "**a controller ... configured to ...in response to the user input being activated to answer the incoming call, cause an audio output section to terminate the musical audible alert while the musical audible alert is being played, in response to user input by playing a replacement musical sequence as a conclusion of the musical audible alert.**"

Nagasawa and Yamaki have been discussed with respect to claim 1.

Yoon was determined in addressing the subject matter of claim 20 to not disclose or suggest "a controller configured, responsive to the user input being activated to answer an incoming call, to control the audio output section **to terminate the musical audible alert while the musical audible alert is being played by playing a replacement musical sequence, where the replacement musical sequence is played as a conclusion to the musical audible alert.**"

Thus, Yoon does not disclose or suggest "**a controller ... configured to ...in response to the user input being activated to answer the incoming call, cause an audio output section to terminate the musical audible alert while the musical audible alert is being played, in response to user input by playing a replacement musical sequence as a conclusion of the musical audible alert.**"

As none of these three cited references discloses or suggests this claimed subject matter, no purported combination of these three references would teach or suggest this claimed subject matter.

Thus, claim 9 is not made obvious by Nagasawa, Yamaki, and Yoon.

The Patent Office rejected claim 12 under 35 U.S.C. 103(a) as being unpatentable over Nagasawa in view of Yamaki and further in view of Mizuno.

Claim 12 depends from claim 1.

Claim 1 recites "**a controller ... configured to ...in response to the user input being activated to answer the incoming call, cause an audio output section to terminate the musical audible alert while the musical audible alert is being played; in response to user input by playing a replacement musical sequence as a conclusion of the musical audible alert.**"

Nagasawa and Yamaki have been discussed with respect to claim 1.

As to claim 12, Mizuno is cited as teaching "an electronic device wherein the replacement musical sequence is stored in a Musical Instrument Digital Interface track of a Musical Instrument Digital Interface file..."

The Patent Office asserted paragraphs 0002 and 0042 as applicable teachings from Mizuno. These passages are reproduced below as follows:

> [0002] The present invention generally relates to a tone generator, a performance information converting method, a performance information converting apparatus and a machine-readable medium of programs for use in an apparatus capable of producing musical sounds such as an electronic musical instrument, a personal computer and amusement equipment. More particularly, **the invention relates to a tone generator, a performance information converting method, a performance information converting apparatus and a machine-readable medium suitable for use in emulating the sound of a ringing melody or the like to be sounded from a potable information terminal set.**
>
> [0042] The corresponding piece of music (basic SMF) is read out from the basic SMF database 330 of the server computer 300 on the basis of the received music selection command. Then the bank select conversion part 350 writes into the SMF a program change including a bank select LSB corresponding to the model specified on the basis of the model designation command, and converts the SMF into an SMF format supported by the model specified. The SMF subjected to the bank select conversion is downloaded to the client computer 100 and reproduced in the player part 30 of the client computer 100 to supply corresponding MIDI data to the tone generator part 10. The tone generator part 10 generates tones on the basis of the MIDI data supplied from the player part 30. Since the MIDI data supplied here

contain a program change having a bank select LSB corresponding to the type of the portable information terminal 400, **the tone generator part 10 selects a bank of timbres that have emulated synthetic tones of the portable information terminal 400. This makes it possible to listen to a sample of the music with a timbre that has emulated the sound of the portable information terminal 400.**

Mizuno does not disclose or suggest "**a controller ... configured to ...in response to the user input being activated to answer the incoming call, cause an audio output section to terminate the musical audible alert while the musical audible alert is being played, in response to user input by playing a replacement musical sequence as a conclusion of the musical audible alert.**"

As none of Mizuno, Nagasawa, and Yamaki teaches or suggests this claimed subject matter, no purported combination of these references would teach or suggest this claimed subject matter.

Thus, claim 12 is not made obvious by Nagasawa in view of Yamaki and Mizuno.

The Patent Office rejected claims 28, 29, 30, and 31 under 35 U.S.C. 103(a) as being unpatentable over Nagasawa in view of Yamaki and further in view of Cronin, U.S. Patent No. 6,216,016, and Yoon.

The rejection of claim 29 is moot as claim 29 has been canceled.

Claim 28 recites as follows:

> An apparatus, comprising: a controller; and a memory configured to store a plurality of replacement musical sequences, the controller, in conjunction with the memory, configured to cause the apparatus to perform actions as follows: detect answering of the incoming call; and **in response to the incoming call being answered, terminate a musical audible alert for the incoming call while the musical audible alert is being played at the apparatus by playing a replacement musical sequence from the plurality of replacement musical sequences as a conclusion of the musical audible alert,** the replacement musical sequence being downloadable from a server to the apparatus via a communication network.

Claim 30 recites as follows:

A method, comprising: determining a call is incoming: playing by a controller an musical audible alert and setting a timer when the incoming call is determined, determining if the incoming call has been answered; **if it is determined that the incoming call has not been answered, then determining if the timer has timed out; if it is determined the timer has timed out or if it is determined that the call has been answered, then playing a replacement musical sequence as a conclusion of the musical audible alert, thereby terminating the playing of the musical audible alert.**

Claim 31 recites as follows:

A method, comprising: detecting by a transceiver that a mobile telephone has an incoming call; starting playing by a controller of a musical audible alert; checking for by the controller a user input generated for answering the call; and **in response to detecting the user input for answering the call, terminating by the controller the playing of the musical audible alert by playing a replacement musical sequence as a conclusion of the musical audible alert.**

Claim 1 of Cronin states as follows:

A portable telecommunications device controllable by a called party, the device comprising: a radio transceiver; memory means; microprocessor means for controlling device functions; **alerting means for alerting the called party if an incoming call is received from a calling party;** message generating means for generating a waiting message intended for the calling party; **first initiating means for initiating periodic transmission of the waiting message to the calling party and for putting the device on hold while periodically transmitting the waiting message;** and second initiating means for halting the periodic transmission of the waiting message and for putting the device in normal communication mode after halting of the periodic transmission of the waiting message, the first and second initiating means being controllable by the called party, and the called party and the calling party being subscribers.

Claim 30 recites as follows: "**if it is determined that the incoming call has not been answered, then determining if the timer has timed out; if it is determined the timer has timed out or if it is determined that the call has been answered, then playing a replacement musical sequence as a conclusion of the musical audible alert, thereby terminating the playing of the musical audible alert.**"

The Patent Office cited column 1, lines 21-31, column 3, lines 8-17, and column 5,

lines 1-27, of Cronin, as teaching "terminate a musical audible alert when at least one termination of the time out period is detected."

Cronin discloses that a waiting message **may be sent to <u>the caller</u>** after an incoming call has been received by the called part. As disclosed by Cronin in column 5, lines 1-6, as follows: "FIG. 5 shows a flowchart for illustrating the operation of a preferred method according to the present invention, whereby the portable device is menu driven and the called party has set the portable device in announcement on answer mode so as to transmit waiting messages to the calling party when receiving an incoming call." This is further evidenced by Cronin in column 5, lines 56-58 which disclose ""Please, keep waiting, my phone is still connected to you but I will need some more time to find a suitable room for answering you"." The waiting messages disclosed in column 5 <u>of Cronin are sent to the calling party and do not represent a termination of a musical audible alert that is then concluded by a replacement musical sequence</u>.

Cronin does not teach or suggest "**if it is determined that the incoming call has not been answered, then determining if the timer has timed out; if it is determined the timer has timed out ..., then playing a replacement musical sequence as a conclusion of the musical audible alert, thereby terminating the playing of the musical audible alert.**"

The Patent Office admitted on page 18 of the November 9, 2010 Final Office Action that neither Nagasawa nor Yamaki teaches this subject matter.

Yoon does not teach this subject matter.

As such, no purported combination of Nagasawa, Yamaki, Cronin, and Yoon would disclose or suggest "**if it is determined that the incoming call has not been answered, then determining if the timer has timed out; if it is determined the timer has timed out ..., then playing a replacement musical sequence as a conclusion of the musical audible alert, thereby terminating the playing of the musical audible alert.**"

Claims 28, 30, and 31 recite, identically or similarly, as follows: "**in response to the incoming call being answered, terminate a musical audible alert for the incoming call while the musical audible alert is being played at the apparatus by playing a replacement musical sequence from the plurality of replacement musical sequences as a conclusion of the musical audible alert.**"

For the reasons provided above, none of Nagasawa, Yamaki, Cronin, and Yoon would disclose or suggest **"in response to the incoming call being answered, terminate a musical audible alert for the incoming call while the musical audible alert is being played at the apparatus by playing a replacement musical sequence from the plurality of replacement musical sequences as a conclusion of the musical audible alert."**

As such, no purported combination of Nagasawa, Yamaki, Cronin, and Yoon would disclose or suggest **"in response to the incoming call being answered, terminate a musical audible alert for the incoming call while the musical audible alert is being played at the apparatus by playing a replacement musical sequence from the plurality of replacement musical sequences as a conclusion of the musical audible alert."**

Thus, claims 28, 30, and 31 and not made obvious by the combination of Nagasawa, Yamaki, Cronin, and Yoon.

The Patent Office is respectfully requested to reconsider and remove the rejections of claims 1, 3-26, and 28-31 under 35 U.S.C. 103(a) based on Nagasawa and Yoon or Yamaki, whether or not in combination with Mizuno or Cronin, and to allow all of the pending claims 1, 3-26, 28, 30, 31, and 34 as now presented for examination. An early notification of the allowability of claims 1, 3-26, 28, 30, 31, and 34 is earnestly solicited. Should the Examiner have any questions, a call to the undersigned attorney would be appreciated.

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